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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules to Establish Competitive Service Safeguards For Local Exchange Carrier Provision of Commercial Mobile Radio Services	)	WT Docket No. 96-162
	)	DOCKET FILE COPY ORIGINAL
Implementation of Section 601(d) of the Telecommunications Act of 1996, and Sections 222 and 251(c)(5) of the Communications Act of the 1934	)	
	)	
Amendment of the Commission's Rules to Establish New Personal Communications Services	)	GEN Docket No. 90-314
	)	
Requests of Bell Atlantic-NYNEX Mobile, Inc. and US West, Inc. for Waiver of Section 22.903 of the Commission's Rules	)	

COMMENTS OF ALLTEL CORPORATION

ALLTEL Corporation ("ALLTEL")[1] hereby submits it comments in the above-captioned matter.[2] While ALLTEL continues to applaud the Commission's efforts to

[1] ALLTEL Corporation is the diversified holding company for the various separate ALLTEL subsidiaries providing land line telephone services and wireless communications services. Other ALLTEL subsidiaries provide information services, communications equipment and supplies.

[2] The Notice of Proposed Rulemaking, Order on Remand, and Waiver Order (the "NPRM") in this matter required that interested parties file comments within 30 days of publication in the Federal Register, which occurred on September 3, 1996. See Fed. Reg. Vol. 61 p. 46420. These comments are therefore timely filed.

remove outmoded regulatory safeguards which are no longer needed given the competitive realities of the market place, it remains concerned that the Commission has yet to acknowledge the diversity of the LEC industry and the need to selectively impose safeguards only on those LECs, which, as a consequence of both their size and ubiquitous service territories, have the potential to pose a competitive threat to competition in the provision of Commercial Mobile Radio Services ("CMRS").

ALLTEL believes that the relief from the structural safeguards required under current section 22.903 of the rules is long overdue and concurs generally with the Commission's desire to develop a symmetrical approach governing non-structural safeguards for Bell Operating Company ("BOC") provision of CMRS services. The Commission, however, seeks to extend the reach of these requirements to all Tier 1 LECs. (NPRM at para. 115). Smaller telephone companies would be excluded from these requirements in view of the Commission's acknowledgment that these companies do not pose a significant threat of anticompetitive behavior, and consequently, should not be burdened with the added regulatory burden and expense of complying with new regulatory safeguards. (NPRM at para. 115). ALLTEL also concurs with this approach.

ALLTEL, however, is once again constrained to sound a now familiar theme with the Commission -- use of the Tier 1 distinction does not accurately divide those LECs who should be subject to safeguards from those who should not. The Telecommunications Act of 1996 provides ample guidance as to the appropriate line of demarcation between those local exchange carriers with and without the power to impede competition. Congress provided an exemption for those local exchange carriers with fewer than 2% of the nation's access lines because, in its judgment, these carriers lack the anticompetitive potential to retard competition. See 47 USC section 251(f)(2). Given the realities of the competitive CMRS market place, the impending entry by new facilities based competitors, and the fact that the land line service territories of most independent telephone companies meeting the 2% test cover only a fraction of the service territories in which they provide cellular or other CMRS service, there is simply no need for added safeguards. Considering the entire state "in region" for purposes of applying safeguards when a Tier 1 independent LEC's exchange may have a limited geographic scope within the state only serves to overextend application of the Commission's proposed rules. Most 2% LECs control discrete small and rural exchanges which, in the aggregate, fall far short of the regional empires established by the BOCs. The Commission's rationale for exclusion of the small companies from the safeguards regimen, in ALLTEL's view, holds equally true for the 2% companies.

The Commission, for the sake of regulatory symmetry, has chosen to subject non-BOC LEC Tier 1 carriers, which previously were subject only to accounting safeguards,[3] to a much broader set of regulatory requirements including: (1) separate affiliates; (2) detailed accounting standards; (3) interconnection compliance plans; (4) network disclosure requirements; and (5) a CPNI compliance plan. The Telecommunications Act of 1996, in addition to promoting deregulation, otherwise negates the need to impose new regulatory requirements. Under the Act, the

[3] Personal Communications Services, 73 RR 2d 1477 at para. 126; Regulatory Treatment of Mobile Services (Second Report and Order), 74 RR 2d 835 at paras. 218-219.

fulfillment of interconnection and other obligations by LECs with fewer than 2% of the nation's access lines may be adequately policed by both the Commission and the states through accounting rules and interconnection arbitration, if necessary, without resort to additional and burdensome safeguard requirements. The Act also has specific provisions governing the use of CPNI and the availability of network information with which LECs of all sizes are obligated to comply.

The Commission believes that its Competitive Carrier decisions offer the correct framework for imposing new regulation on Tier 1 LECs. (NPRM at para. 110). ALLTEL and other companies with fewer than 2% of the nation's access lines have consistently argued that the dominant/nondominant dichotomy is outmoded in the wake of the Telecommunications Act of 1996, its elimination of the barriers to market entry, and the size of new market entrants. As argued in the Forbearance Suggestions by the Independent Telephone and Telecommunications Alliance dated June 24, 1996, these companies are without market power and are subject to competition from a plethora of existing and emerging sources, some of which have resources which dwarf those of smaller Tier 1 LECs. Imposing a regime of regulatory safeguards upon these carriers based upon the notion that they remain dominant in their markets is misguided. These companies have not been adjudged guilty of anticompetitive behavior, nor were they party to a consent decree. The Commission is again imposing a solution in search of a problem.

In the last analysis, smaller LECs may have adopted a corporate structure for the provision of CMRS services for reasons which may have little to do with the

Commission's safeguards. As all communications markets, and in particular, the CMRS market, become more competitive, carriers with fewer than 2% of the nation's access lines should have the flexibility to provide one-stop shopping for communications services through the most efficient corporate structure they deem appropriate. They should not be hampered in a competitive market place by outmoded safeguards. While ALLTEL applauds the Commission's sensitivity to the needs of small companies, it believes that all companies with less than 2% of the nation's access lines should be exempted from the proposed new requirements.

Respectfully submitted,

ALLTEL Corporation

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Copies of the foregoing "Comments of ALLTEL Corporation" were served this 3rd day of October, 1996 on the following:

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